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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/735,401

12/12/2003

Yu Zheng

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EXAMINER

YIP, WINNIE S

ART UNIT

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3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/735,401	Applicant(s) ZHENG, YU	
	Examiner Winnie Yip	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,21,23-28 and 34-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,21,23-28 and 34-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This office action is in response to applicant's amendment filed on June 24, 2008 for a Request Continued Examination (RCE) of earlier application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Double Patenting

1. Claims 20-21, 23-28, 34-41 stand provisionally rejected on the ground of nonstatutory obviousness- type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. **7,308,989**, and over claims 1-24 of U.S. Patent No. **6,901,940** for the same reasons set forth last office action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 20-21, 23-28, 34-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In these claims, it is not clear how the apparatus can contain matter such as fluid without leakage if the bottom of the wall panel, and the periphery of the base panel are coupled with a sleeve by "a common stitching" if there is only one layer of wall panel?

Claim Rejections - 35 USC § 103

4. Claims 20-21, 24-28, and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (US Patent No. 6,783,016) in view of Wyllie (US Patent No. 2,854,049).

Wang teaches a container comprising a wall panel formed by a sheet of waterproof material (16), a base panel formed by a sheet of waterproof material (18), the base panel (18) defining a periphery, the sheet of material of the wall panel being coupled to sheet of material of the base panel to define an interior space configured, an inner flexible fabric (20) attached inside of the interior space to define a containment for receive a fluid (22) therein, a lower sleeve being formed from a sleeve material separated from the sheets of waterproof material of the wall panel and the base panel, the sleeve being coupled to the bottom portion of the wall panel and the periphery of the base panel by suitable fastener means which would be obvious by heat sealing or stitching, and a collapsible frame member (14) being disposed within the sleeve, and the frame member (14) defining a continuous loop having a folded and an unfolded configuration for spread the container to its maximum size. Wang further teaches an upper sleeve disposed at a top portion of the wall panel to provide a floating tube for receiving a floating member (12) therein for supporting the container at an upright position when the water is placed inside of the interior. Although Wang does not explicitly define the sleeve being coupled to the outer layer of the wall panel and the base panel by stitching, it would have been obvious to one ordinary skill in the art at the time the invention was made to secure the sheet type materials such as flexible material together by various choice of fastening means such as by glued or heat sealed or stitching as depend upon choice of the material and to do so involves only routine skill in the art.

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Further, Wang does not define the floating tube is not an inflatable tube as claimed. Wyllie teaches a container comprising a base panel and a wall panel coupled together to define an interior space for receiving fluid, an inflatable tube (9) disposed on upper portion of the wall panel (8) and having a inflation valves (not show) (see col. 2, lines 1-7) for inflating the container when the container is filled with water. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Wang having the floating tube disposed on the top portion of the wall panel being formed with inflation valves as taught by Wyllie such that the tube can be inflated and deflated for easily collapsing the container into a small configuration for storage and placing the container in opening position.

Regard to claims 21 and 35, Wang as modified by Wyllie is considered to have the container being capably configured as a "pool" as claimed. Notice, the "pool" is only a name of intended to be use and does not give a lot of patentability weight there on.

5. Claims 20-21, 24-28, and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chou (US Patent No. 5,603,129) in view of Wang (US Patent No. 6,783,016).

Chou teaches an apparatus for wall pool comprising: a wall panel made of a sheet of waterproof material (18), a base panel (12) made of a sheet of waterproof material (18), the base panel (18) defining a periphery, a bottom of the wall panel and the periphery of the base panel being coupled together by heat seal regions to define an interior apace configured to receive a fluid, an inflatable tube (39) disposed at a top portion of the wall panel, an outer sheet (20) mounted to the wall panel to define a sleeve thereon, and a collapsible frame member (32) being disposed within the sleeve for supporting the wall panel in an expanded position. Although

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Chou does not define the sleeve being coupled to at least one of the bottom portion of the wall panel or the periphery of the base panel by a common stitch as claimed. Wang teaches an apparatus for wall container comprising a wall panel and a base panel, a sleeve disposed at the bottom portion of the wall panel and the periphery of the base panel for receiving the frame member (14) therein, the sleeve being formed from a sleeve material separated from the material of the wall panel and the material of the base panel, and the sleeve having two edges coupled to the bottom portion of the wall panel and the periphery of the base panel by a common connection. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the apparatus comprising a sleeve being coupled to the bottom portion of the wall panel and the periphery of the base portion by a desirable securing means such as by heat sealing or by a common fastener such as by heat sealing or by a common stitching as claimed as depend upon choice of material of the wall panel and the base panel for retaining a frame member there within as taught by Wang for holding the bottom of the container in an expanded position and adding a weight to the bottom of the containers for stabilizing of the container in an upright position.

6. Claims 20-21, 24-28, and 34-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw '437 in view of Wyllie (US Patent No. 2,854,049) and further in view of Wang (US Patent No. 6,783,016).

Shaw et al. teaches a collapsible container comprising: a circular wall panel (12) having a top portion and bottom portion, a tubular floating member (15) disposed at the top portion of the wall panel, a base panel (11) defining a periphery, the bottom of the wall panel coupled to the

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periphery of the base panel, the base panel (11) and the wall panel (12) are made of sheets of waterproof material/liquid impermeable material (col. 3, lines 21-24), the lower edge of the wall panel (12) is attached to the periphery of the base panel by any known manner such as by heat seal or stitching such that the wall panel and the base panel define an interior space configured to receive a fluid (see col. 3, lines 25-30), a liner member (16) being attached to the wall panel (12) and the base panel (11) to form a sleeve between the liner member and the bottom portion of the wall panel or the periphery of the base panel by suitable fasteners, a collapsible frame member (14) being made of a continuous loop of composed of flexible resilient material having a folded and unfolded configuration, the collapsible frame member (14) being retained in the sleeve. which is coupled to the bottom portion of the wall panel (12) and the periphery of the base panel by stitching (see Fig. 3) as claimed such that the floating member (15) acts to raise wall panel (12) as liquid fills the interior of the container. Although, Shaw does not define the tubular floating member (15) being an inflatable tube having inflated configuration and a deflated configuration. Wyllie teaches a collapsible liquid container comprising a wall panel (8), a base panel (2), and an inflatable tube (10) formed at a top portion of the wall panel, the inflatable tube (10) being inflated through inflation valves (see col. 2, lines 9-10) such that the inflatable tube raises the wall panel when the liquid filling up the interior space of the container. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Shaw et al. having the tube disposed on the top portion of the wall panel being formed with inflation valves as taught by Wyllie instead of a inserted floating member such that the tube can be inflated and deflated for easily collapsing the container into a small configuration for storage and placing the container in opening position. Further, although Shaw

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does not define the base panel having a sleeve formed from a separated sleeve material, Shaw discloses that the base panel having the collapsible frame member being attached to the perimeter of the base panel by any known manner such as by stitching (see col. 3, lines 25-30). And, Wang teaches a container having a base panel formed by a loop of composed frame member (14) which is retained by a sleeve formed by a separated sleeve material connected to a base panel (18) and a wall panel (16) by a common stitch as a known method for easily attaching a base panel with a wall panel. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the apparatus of Shaw as modified by Wyllie having the collapsible frame member of base panel being disposed within a sleeve formed by a separated sleeve material attached to the base panel and wall panel by a suitable connection as taught by Wang form easily assembling a frame member to the base panel to the wall panel.

Regard to claims 21 and 35, Shaw as combined with Wyllie and Wang is considered to have the container being capably configured as a "pool" as claimed. Notice, the "pool" is only a name of intended to be use and does not give a lot of patentability weight there on.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang '016 as modified by Wyllie '049 as applied to claim 20 above, and further in view of Ivanovich et al. (US Patent No. 5,163,461).

The claim is considered to meet by Wang as modified by Shaw as explained and above rejections except that Wang and Shaw do not define the container having the collapsible frame member having two ends being coupled together by a connector to form a continuous loop as claimed. Ivanovich et al. teaches a collapsible structure comprising a plurality of collapsible

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frame members each having ends being coupled together by a connector (51 or 54 or 52), as known in the art, to form a continuous loops of frame member which can be folded and unfolded. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the collapsible container of Wang combined by Shaw having the collapsible frame member which disposed in the sleeve coupled to the bottom of the wall panel and having ends being coupled together by a connector as taught by Ivanovich et al. as a obvious coupling mechanism for forming a continuous loop of frame member to be retained inside of the sleeve for holding and retaining the panels of the container in an unfolded position and can be folded into a storage position.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chou '129 in view of Wang '016 as applied to claim 20 above, and further in view of Ivanovich et al. (US Patent No. 5,163,461) for the same reasons set forth above rejection.

9. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw '437 as modified by Wyille '049 and Wang '016 as applied to claim 20 above, and further in view of Ivanovich et al. (US Patent No. 5,163,461) for the same reasons set forth above rejection.

Response to Arguments

10. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Applicant argues that Wang teaches away a sleeve being formed from a sleeve material separated from the material for the wall panel, and having edges being secured to the wall panel by "a common stitch". It is not persuasive. In this case, Shaw and Wang both teach an apparatus for containing fluid. Shaw teaches a frame attached to an outer layer at the bottom of the wall panel and at the periphery of the base wall by suitable securing means. Wang teaches a water container/pool having an interior space also formed by an inner web (20) which is liquid-tight containment web without stitching, and an outer web (16) supporting the inner layer, the outer web which comprising a wall panel (16) and a base panel (14), and a sleeve having two edges being secured to the bottom portion of the wall panel (16) and the periphery of the base panel (18) by any suitable fastening as claimed. And, to choice of suitable fastener means such as by heat sealed or a common stitching would have been obvious to one ordinary skill in the art to achieve a predicable result as claimed such as by stitching as depend upon the material of the sleeve to be used. Therefore, obviousness has been established.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Winnie Yip/
Primary Examiner,
Art Unit 3636

wsy
August 15, 2008